

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 10/06/01?
 - b. The request was received on 01/31/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC-60
 - b. HCFAs
 - c. EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 05/22/02
 - b. HCFA's
 - c. Audit summaries/EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g)(3), the Division forwarded a copy of the requestor's 14-day response to the insurance carrier on 05/17/02. Per Rule 133.307 (g)(4), the carrier representative signed for the copy on 05/20/02. The response from the insurance carrier was received in the Division on 05/29/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: per TWCC-60b
"We feel that we are due further reimbursement of this claim. We have resubmitted the claim with necessary documentation supporting our claim for payment in full. The insurance carrier is still denying additional payment. We have billed this equipment at a fair and reasonable rate and are requesting additional payment in full with interest."

2. Respondent: letter dated 05/22/02
 “The Office would respectfully refer the Commission to DME Ground Rule IX. A. which states that a statement of medical necessity, along with the order or prescription appropriate for the equipment/supplies shall accompany initial claims for the rental or purchase of DME.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d)(1&2), the only date of service eligible for review is 10/06/01.
2. The carrier’s EOB has the denials “M – Reduced to Fair & Reasonable” and “N – Please submit a copy of the invoice with the bill.”
3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code	MARS	REFERENCE	RATIONALE:
10/06/01	E1399	\$155.00	\$113.45	M	DOP	Texas Workers’ Compensation Act & Rules, Sec. 413.011 (d), Rule 133.304 (i); MFG, GI (III)	Due to the fact there is no current fee guideline for the DME provided, the Medical Review Division has to determine based on the parties’ submission of information, what represents fair and reasonable reimbursement. The MFG, GI (III) states, “(DOP) in the ... (MAR) column indicates that the value of this service shall be determined by written documentation attached to or included in the bill.” This places the burden on the provider to show what is fair and reasonable reimbursement. The carrier has submitted its methodology for determining “fair and reasonable” reimbursement and the provider has submitted EOBs to document fair and reasonable reimbursement. However, recent SOAH decisions have given minimal weight to EOBs for documenting fair and reasonable reimbursement. The willingness of some carrier’s to reimburse at or near the billed amount does not necessary document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011 (d). Therefore, no additional reimbursement is recommended.
10/06/01	E1399	\$75.00	\$0.00	N	DOP	Texas Workers’ Compensation Act & Rules, Sec. 413.011 (d), Rule 133.304 (c); MFG, DME GR (IX)(A & B)	The carrier’s EOB has denied “N” and requested an invoice. The dispute packet contains sufficient documentation to satisfy the requirements of the referenced DME GR. The provider is not required to submit an invoice and reimbursement is to be based on fair and reasonable and not on the invoice price. Therefore, reimbursement of \$75.00 is recommended.
10/06/01	E0781	\$485.00	\$0.00	N	DOP	Texas Workers’ Compensation Act & Rules, Sec. 413.011 (d), Rule 133.304 (c); MFG, DME GR (IX)(A & B)	The carrier’s EOB has denied “N” and requested an invoice. The dispute packet contains sufficient documentation to satisfy the requirements of the referenced DME GR. The provider is not required to submit an invoice and reimbursement is to be based on fair and reasonable and not on the invoice price. Therefore, reimbursement of \$485.00 is recommended.
Totals		\$715.00	\$113.45				The Requestor is entitled to additional reimbursement of \$560.00.

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$560.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 20th day of June, 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.